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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111213751-2102-02]

RIN 0648-XC278

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Atka mackerel in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of the 2012 Atka mackerel incidental catch allowance (ICA) for the Bering Sea subarea and Eastern Aleutian district (BS/EAI) of to the Amendment 80 cooperatives in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the 2012 total allowable catch of Atka mackerel to be fully harvested.

DATES: Effective [Insert date of filing for public inspection with the Office of the Federal Register], through 2400 hrs, Alaska local time (A.l.t.), December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7269.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act.

Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2012 Atka mackerel ICA for the BS/EAI is 1,000 metric tons (mt) and 2012 Atka mackerel total allowable catch allocated to the Amendment 80 cooperative is 29,892 mt as established by the final 2012 and 2013 harvest specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012).

The Administrator, Alaska Region, NMFS, has determined that 570 mt of the Atka mackerel ICA for the BS/EAI will not be harvested. Therefore, in accordance with § 679.91(f), NMFS reallocates 570 mt of Atka mackerel from the BS/EAI ICA to the Amendment 80 cooperatives in the BSAI. In accordance with § 679.91(f), NMFS will reissue cooperative quota permits for the reallocated Atka mackerel following the procedures set forth in § 679.91(f)(3).

The harvest specifications for Atka mackerel included in the harvest specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012) are revised as follows: 430 mt of Atka mackerel for the BS/EAI ICA and 30,463 mt of Atka mackerel for the Amendment 80 cooperatives in the BS/EAI. Table 4 is correctly revised and republished in its entirety as follows:

TABLE 4—FINAL 2012 AND 2013 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector <sup>1</sup>	Season <sup>2,3,4</sup>	2012 allocation by area			2013 allocation by area		
		Eastern Aleutian District/Bering Sea	Central <sup>5</sup> Aleutian District	Western Aleutian District	Eastern Aleutian District/Bering Sea	Central <sup>5</sup> Aleutian District	Western Aleutian District
TAC	n/a	38,500	10,763	1,500	31,700	8,883	1,500
CDQ reserve	Total	4,120	1,152	161	3,392	950	161
	A	2,060	576	80	1,696	475	80
	Critical Habitat <sup>5</sup>	n/a	58	n/a	n/a	48	n/a
	B	2,060	576	80	1,696	475	80
	Critical Habitat <sup>5</sup>	n/a	58	n/a	n/a	48	n/a
ICA	Total	430	100	40	1,000	100	40
Jig <sup>6</sup>	Total	167	0	0	137	0	0
BSAI trawl limited access	Total	3,321	951	0	2,717	783	0
	A	1,661	476	0	1,359	392	0
	B	1,661	476	0	1,359	392	0
Amendment 80 sectors	Total	30,463	8,560	1,300	24,454	7,049	1,300
	A	15,231	4,280	650	12,227	3,525	650
	B	15,231	4,280	650	12,227	3,525	650
Alaska Groundfish Cooperative	Total	17,770	5,016	759	n/a	n/a	n/a
	A	8,885	2,508	380	n/a	n/a	n/a
	Critical Habitat <sup>5</sup>	n/a	251	n/a	n/a	n/a	n/a
	B	8,885	2,508	380	n/a	n/a	n/a
	Critical Habitat <sup>5</sup>	n/a	251	n/a	n/a	n/a	n/a
Alaska Seafood Cooperative	Total	12,693	3,544	541	n/a	n/a	n/a
	A	6,347	1,772	271	n/a	n/a	n/a
	Critical Habitat <sup>5</sup>	n/a	177	n/a	n/a	n/a	n/a
	B	6,347	1,772	271	n/a	n/a	n/a
	Critical Habitat <sup>5</sup>	n/a	177	n/a	n/a	n/a	n/a

<sup>1</sup> Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

<sup>2</sup> Regulations at §§ 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

<sup>3</sup> The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

<sup>4</sup> Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to November 1.

<sup>5</sup> Section 679.20(a)(8)(ii)(C) requires the TAC in area 542 shall be no more than 47% of ABC, and Atka mackerel harvests for Amendment 80 cooperatives and CDQ groups within waters 10 nm to 20 nm of Gramp Rock and Tag Island, as described Table 12 to part 679, in Area 542 are limited to no more than 10 percent of the Amendment 80 cooperative Atka mackerel allocation or 10 percent of the CDQ Atka mackerel allocation.

<sup>6</sup> Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and ICA. The amount of this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.

**Note:** Seasonal or sector apportionments may not total precisely due to rounding.

This will enhance the socioeconomic well-being of harvesters dependent upon Atka mackerel in this area. The Regional Administrator considered the following factors in reaching this decision: (1) the current catch of Atka mackerel ICA in the BS/EAI, (2) the harvest capacity and stated intent on future harvesting patterns of the Amendment 80 cooperative that participates in this BS/EAI fishery.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Atka mackerel from the BS/EAI ICA to the Amendment 80 cooperatives in the BSAI. Since the fishery is currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 28, 2012.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.91 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 et seq.

Dated: October 3, 2012

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Lindsay Fullenkamp,  
Acting Deputy Director, Office of Sustainable  
Fisheries, National Marine Fisheries Service.

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